



7020-02

INTERNATIONAL TRADE COMMISSION
[Investigation No. 337-TA-1012]
(Consolidated Modification and Enforcement Proceeding) Certain Magnetic Data Storage Tapes and Cartridges Containing the Same
Commission Determination Not to Review an Initial Determination Terminating the Modification Portion of the Consolidated Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (“ID”) (Order No. 49) issued by the presiding administrative law judge (“ALJ”) granting a motion of respondents Sony Corporation of Tokyo, Japan, Sony Corporation of America of New York, New York, and Sony Electronics Inc. of San Diego, California (collectively, “the Sony respondents”) to terminate the modification portion of the consolidated enforcement and modification proceeding. The modification portion of the consolidated proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS)

at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the original investigation on July 1, 2016, based on a complaint filed by Fujifilm Corporation of Tokyo, Japan, and Fujifilm Recording Media U.S.A., Inc. of Bedford, Massachusetts (collectively, "Fujifilm"). 81 FR 43243-44 (July 1, 2016). Pertinent to this action, the complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), in the sale for importation, importation, and sale within the United States after importation of certain magnetic data storage tapes and cartridges containing the same by reason of infringement of, *inter alia*, claims 1, 4-9, 11 and 14 of U.S. Patent No. 6,641,891 ("the '891 patent"). The Commission's Notice of Investigation named the Sony respondents as respondents. The Office of Unfair Import Investigations ("OUII") was also named as a party to the investigation.

On March 8, 2018, the Commission found a section 337 violation as to the '891 patent and issued a limited exclusion order ("LEO") and cease and desist orders ("CDOs") to each of the Sony respondents. 83 FR 11245-47 (March 14, 2018). The LEO generally prohibits the Sony respondents from importing certain magnetic data storage tapes and cartridges containing the same that infringe the '891 patent, with certain exceptions related to service and repair and verification testing. The CDOs prohibit the Sony respondents from importing, selling, marketing, advertising, distributing, transferring (except for exportation) certain magnetic data storage tapes and cartridges containing the same that infringe the '891 patent, and soliciting United States agents or distributors for these activities.

On June 13, 2018, the Commission instituted a formal enforcement proceeding, pursuant

to Commission Rule 210.75(a) (19 CFR 210.75(a)), to determine whether a violation of the March 8, 2018 CDOs issued in the original investigation has occurred and to determine what, if any, enforcement measures are appropriate. 83 FR 27626-27 (June 13, 2018). The named respondents are Sony and Sony Storage Media Solutions Corporation of Tokyo, Japan; Sony Storage Media Manufacturing Corporation of Miyagi, Japan; Sony DADC US Inc. of Terre Haute, Indiana; and Sony Latin America Inc. of Miami, Florida. OUII was also named as a party.

On August 23, 2018, the Commission instituted a modification proceeding, pursuant to Commission Rule 210.76(b) (19 CFR 210.76(b)), to determine whether the LEO and CDOs issued in the underlying investigation should be modified to exclude certain of Sony's redesigned tape products. 83 FR 42690 (Aug. 23, 2018). The Commission consolidated the modification and on-going enforcement proceedings and delegated the consolidated proceeding to the ALJ.

On October 10, Sony filed a motion to terminate the modification portion of the consolidated proceeding based on withdrawal of its request for a determination that its redesigned products do not infringe the '891 patent. The motion indicated that Fujifilm does not oppose the requested termination. On October 11, 2018, OUII filed a response supporting the motion.

On October 19, 2018, the ALJ issued the subject ID granting Sony's motion pursuant to Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)). The ID finds that Sony's motion complies with the Commission's rules and that there are no extraordinary circumstances that might justify denying the motion. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: November 14, 2018.

Lisa Barton,
Secretary to the Commission.

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